

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: April 23, 2007:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, April 23, 2007.

The Commissioners present or absent were as shown following:

Present: Coates, Mahoney, Williams, Wimmer, Walaker.

Absent: None.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Coates moved the Order of the Agenda be approved adding an update by City Attorney Erik Johnson on the mediation issue for annexation of Sections 5 and 6 in Stanley Township at the end of the Agenda.

Second by Williams. All the Commissioners voted aye and the motion was declared carried.

Minutes Approved:

Commissioner Coates moved that the Minutes of the Regular Meeting of the Board held on April 9, 2007 be approved as read.

Second by Williams. All the Commissioners voted aye and the motion was declared carried.

Consent Agenda Approved:

Commissioner Coates moved the Consent Agenda be approved as follows:

- a. 2nd reading, waive reading and final adoption of the following Ordinances, 1st reading, 4/9/07:
 - (1) Amending Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverage Classifications (Class "B-Limited").
 - (2) Amending Section 25-1507 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Alcoholic Beverage License Fees (Class "B-Limited").
 - (3) Amending Section 25-1508 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to Issuance and Transfer of Licenses (Class "B-Limited").
 - (4) Amending Section 25-1506 of Article 25-15 of Chapter 25 of the Fargo Municipal Code Relating to License Classifications.

- b. Receive and file Ordinance Relating to License Classifications and Fees.
- c. Applications for property tax exemptions for improvements made to buildings:
 - (1) Mark and Nancy Koehn, 2914 Southgate Drive South - 3 year.
 - (2) Brian Fournier, 1814 3rd Street North - 5 year.
 - (3) Rita Kaye Goodwill, 1512 4th Avenue North - 5 year.
 - (4) Karen Earles Anderson, 821 North University Drive - 5 year.
 - (5) Cindy Simmer, 1522 9th Street North - 5 year.
- d. Denial of application filed by Kevin and June Lahren for property tax exemption for improvements made to a building at 531 21st Street South.
- e. Position Evaluation Committee recommendations as follows:
Police Department - Police Chief Keith Ternes requests approval of a contract to provide bailiff services to Municipal Court with a contract position. PEC recommends approval of this request effective immediately and until December 31, 2007.

PEC recommends approval of the following items following a review of the 2006 Salary Survey to be effective June 1, 2007: Positions currently listed as paid "Out of Grade" will be officially reclassified - Senior Planner D62 (3 Positions); Assistant Airport Director C53; Airport Director E81; Engineering Technician I B23; Police Captain D62 (2 Positions); Police Lieutenant D61 (5 Positions); Programmer Analyst I B25 (3 Positions); Programmer Analyst II C41 (6 Positions); Programmer Analyst III C43 (2 Positions); Survey Assistant B21 (2 Positions); W/WW Control Systems Manager C41 (2 Positions); Water Meter Service Technician B23 (3 Positions). Budget Impact - \$0.00.

The following positions will move from E82 to E83 with a minimum 3% increase: Planning Director E82 Step 9 \$96,109.10 to E83 Step 8; Police Chief E82 Step 5 \$87,648.70 to E83 Step 5; Enterprise Director E82 Step 9 \$96,109.10 to E83 Step 9; Public Health Director E82 Step 11 \$100,802.00 to E83 Step 11; Fire Chief E82 Step 10 \$98,447.86 to E83 Step 9; City Engineer E82 Step 11 \$100,802.00 to E83 Step 11; Finance Director E82 Step 11 \$100,802.00 to E83 Step 11; Chief Information Officer E82 Step 10 \$98,447.86 to E83 Step 9; Human Resources Director E82 Step 10 \$98,447.86 to E83 Step 9. Budget Impact - \$29,765.

The City Administrator position will move from E91 Step 11 \$113,261.41 to E93 Step 10. Budget Impact - \$5,382.

- f. Guidelines to the City's health insurance Summary Plan Description relating to the claims filing process.
- g. Memorandum of Understanding with FirstLink for coordination of volunteer services during an emergency event.

- h. Site Authorizations for Games of Chance for Northern Prairie Performing Arts at the Windbreak Lounge, the Doublewood Inn and Old Broadway.
- i. Application filed by Roger Maris Celebrity Golf Tournament for a raffle on 6/24/07.
- j. Contract with Carl Walker Parking Consultants for repairs and maintenance of the Radisson parking structure.
- k. \$246,000 expenditure for installation of a Water Treatment Plant chiller.
- l. \$122,670 expenditure for a Wastewater Treatment Plant odor control pilot project.
- m. Revised policy on consultant selection and requirements for engineering services on public construction projects.
- n. Shared Use Path Agreement with BNSF Railway and Northern Improvement Company for Project No. 5303.
- o. Approve the "shift to the north" alternative as the preferred 52nd Avenue South Interchange alignment and direct City staff to develop street network plan for vacant land in all quadrants of the Interchange.
- p. Engineering Services Agreement with HWS Consulting Group for Project No. 5681.
- q. Contract Amendment No. 1 in the amount of \$5,300 for Project No. 5667.
- r. Utility easement on City-owned property along the north side of 40th Avenue South from 38th to 40th Streets.
- s. Bid advertisement for Project No. 5714.
- t. Contracts and bonds for Project Nos. 5717 and 5721.
- u. Bills in the amount of \$2,240,228.69.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

No Protests Received for Asphalt Wearing Course and Incidentals Improvement District No. 5710:

The Statutory Resolution of Necessity for the construction of Asphalt Wearing Course and Incidentals Improvement District No. 5710 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North

Dakota on March 19 and 26, 2007 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Coates moved that the Board declare that no protests have been filed to the construction of Asphalt Wearing Course and Incidentals Improvement District No. 5710.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Bids Received for Asphalt Wearing Course and Incidentals Improvement District No. 5710:

The bids for Asphalt Wearing Course and Incidentals Improvement District No. 5710 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., April 18, 2007 and the bids were found to be as follows:

Border States Paving, Inc. Bid:	Fargo, ND \$367,013.00
Aggregate Industries Bid:	Moorhead, MN \$386,139.40
Northern Improvement Bid:	Fargo, ND \$424,997.05
Central Specialties, Inc. Bid:	Alexandria, MN \$428,328.00

Contract for Asphalt Wearing Course and Incidentals Improvement District No. 5710 Awarded to Border States Paving, Inc. in the Amount of \$367,013.00:

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Asphalt Wearing Course and Incidentals Improvement District No. 5710; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received April 18, 2007 for Asphalt Wearing Course and Incidentals Improvement District No. 5710 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Asphalt Wearing Course and Incidentals Improvement District No. 5710 shows the bid of Border States Paving, Inc. of Fargo, North Dakota, in the sum of \$367,013.00 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Border States Paving, Inc. in the sum of \$367,013.00 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Asphalt Wearing Course and Incidentals Improvement District No. 5710 in the City of Fargo, North Dakota, be and the same is hereby awarded to Border States Paving, Inc. for the sum of \$367,013.00, subject to the supervision, inspection and approval of the City Engineer,

and in accordance with the Plans and Specifications filed in the office of the City Auditor.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5712 (Darlings 1st and 2nd Additions):

Commissioner Coates moved the following action be taken in connection with Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5712:

Adopt Resolution Creating Improvement District No. 5712:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5712, in the City of Fargo, North Dakota, be created

On 8th Avenue South from South University Drive to 17th Street.

On 9th Avenue South from South University Drive to 17th Street.

On 14th Street South from 7th Avenue to 9th Avenue.

On 15th Street South from 7th Avenue to 9th Avenue.

On 16th Street South from 8th Avenue to 9th Avenue.

COMPRISING:

Lot 6 and 12 through 20, inclusive, Block 2.

Lots 1 through 24, inclusive, Block 3.

Lots 1 through 12, inclusive, Block 4.

Lots 1 through 3 and 11 through 22, inclusive, Block 6.

Lots 1 through 22, inclusive, Block 7.

Lots 1 through 11, inclusive, Block 8.

All in Darlings 1st Addition.

Lots 4 through 15, inclusive, Block 3.

Lots 2 through 15, inclusive, Block 4.

Lots 1 through 24, inclusive, Block 5.

Lots 1 through 24, inclusive, Block 6.

Lots 16 through 24, inclusive, Block 7.

Lots 16 through 24, inclusive, Block 8.

All in Darlings 2nd Addition.

All of the foregoing located in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5712, in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5712:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5712, in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$2,699,375.)

Order Plans and Specifications for Improvement District No. 5712:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5712, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5712:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5712, in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 5712, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Water Main Replacement, Street Reconstruction and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Water Main Replacement, Street Reconstruction & Incidentals, Improvement District No. 5712 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That a portion of said Water Main Replacement, Street Reconstruction & Incidentals improvement is to be paid from Street Sales Tax Funds, and approximately 24% is to be assessed against the benefited property in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Water Main Replacement, Street Reconstruction & Incidentals must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5712:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5712, in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Contract for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 Approved:

Commissioner Coates moved approval of the Contract between the City of Fargo and Dakota Underground for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Contract Bond for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 Approved:

Commissioner Coates moved approval of the following described Contract Bond as to sufficiency:

United Fire and Casualty Company, in the amount of \$295,553.85, for Water Main Replacement, Street Reconstruction and Incidentals Improvement District No. 5694 in the City of Fargo, North Dakota.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Action on the Emergency Shelter/Detox Center Delayed Until May 7, 2007:

Commissioner Coates stated action on the site for the Emergency Shelter/Detox Center is being delayed until the May 7, 2007 City Commission meeting to allow more time to look at alternative sites.

Request for Tax Increment Financing for Redevelopment of a Site at 29th Avenue North and Broadway referred to the Appropriate Staff for Review:

The Board received a communication from Planning Director Jim Gilmour submitting a request from City View for the preparation of a development plan and tax increment financing assistance. Mr. Gilmour stated the project consists of the redevelopment of a site at 29th Avenue North and Broadway. He said the existing land use is two vacant restaurants and would be redeveloped into condominiums and a small amount of commercial space.

In answer to a question, Michael Domitrovich from City View, stated they are hoping to begin construction some time in June if everything goes well.

Commissioner Coates moved staff be directed to submit the proposal to the City's financial advisors for review as well as prepare a renewal plan and a development agreement.

Second by Wimmer. On call of the roll Commissioners Coates, Wimmer, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Action on a Petition Filed by Fred and Earlyne Hector for Exclusion of Property Located Northeast of I-29 and 52nd Avenue South from the City of Fargo Delayed Until May 7, 2007:

Mayor Walaker stated action on the petition filed by Fred and Earlyne Hector for exclusion of property located northeast of I-29 and 52nd Avenue South from the City of Fargo is being delayed until May 7, 2007 at the request of the developer.

Hearing on a Petition for a Zoning Change on Part of the Southeast Quarter of Section 34, Township 139 North, Range 49 West Continued to May 7, 2007 (4005 52nd Avenue South):

This was the time and date set for a Hearing on a petition for a zoning change on part of the southeast quarter of Section 34, Township 139 North, Range 49 West, however, the developer has requested that the Hearing be continued to May 7, 2007.

Commissioner Wimmer moved the Hearing be continued to May 7, 2007.

Second by Mahoney. On call of the roll Commissioners Williams, Mahoney, Wimmer, Coates and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Hearing on a Renewal Plan on the Proposed Tax Increment Financing District No. 2007-01 Continued to May 7, 2007:

A Hearing had been set for March 26, 2007 on a Renewal Plan on the proposed Tax Increment Financing District No. 2007-01 for a Plan to redevelop an area southwest of 12th Avenue North and Albrecht Boulevard.

At the March 26, 2007 meeting, the Hearing was continued to April 9, 2007.

At the April 9, 2007 meeting, the Hearing was continued to this date and hour, however, the Planning Department has requested the Hearing be continued to May 7, 2007.

Commissioner Wimmer moved the Hearing be continued to May 7, 2007.

Second by Mahoney. On call of the roll Commissioners Williams, Mahoney, Wimmer, Coates and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Parcels of Land in Kenney and Devitts 2nd Addition Rezoned (505 and 511 5th Street North and 508 and 510 4th Street North):

At a Hearing held on March 14, 2007 the Fargo Planning Commission recommended approval of a change in zoning from LI, Limited Industrial to DMU, Downtown Mixed Use on Lot 3, Lot 4, Lot 11, Lot 12, Lot A and 1/2 vacated 5th Street North, all within Block 33, Kenney and Devitts 2nd Addition.

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

WHEREAS, There have been no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the rezoning be approved.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Kenney and Devitts 2nd Addition to the City of Fargo:

Commissioner Coates moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Kenney and Devitts 2nd Addition to the City of Fargo be placed on first reading.

Second by Wimmer. On call of the roll Commissioners Coates, Wimmer, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Parcels of Land in Darlings 1st Addition Rezoned (703 University Drive South):

At a Hearing held on April 11, 2007 the Fargo Planning Commission recommended approval of a change in zoning from MR-2, Multi-Family to SR-4, Single Family on the east 140 feet of Lot 1, Block 2, Darlings 1st Addition.

The City Auditor's Office published a Notice of Hearing stating this is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

Commissioner Coates offered the following Resolution and moved its adoption:

WHEREAS, All legal requirements in connection with the above-described request for rezoning have been complied with; and

WHEREAS, There have been no written or verbal protests to the request for rezoning and no one is present to protest thereto.

NOW, THEREFORE, BE IT RESOLVED, That the rezoning be approved.

Second by Wimmer. On the vote being taken on the question of the adoption of the Resolution Commissioners Coates, Wimmer, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the Resolution was adopted.

First Reading of an Ordinance Rezoning Certain Parcels of Land Lying in Darlings 1st Addition to the City of Fargo:

Commissioner Coates moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Rezoning Certain Parcels of Land Lying in Darlings 1st Addition to the City of Fargo be placed on first reading.

Second by Wimmer. On call of the roll Commissioners Coates, Wimmer, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Text Amendments to the Land Development Code Approved:

A Hearing had been held by the Fargo Planning Commission on March 14, 2007 for the purpose of considering staff initiated text amendments to the Land Development Code regarding platting of minor subdivisions amending Sections 20-0802.D.4, 20-0901, 20-0907.B.3, 20-0907.B.4; 20-0907.B.5, 20-0907.B.6, 20-0907.C and 20-1202.66.b of Chapter 20 and the Fargo Planning Commission at such Hearing recommended to the Board of City Commissioners that the request be approved.

The City Auditor's Office published a Notice of Hearing stating April 9, 2007 is the time and date set for said Hearing at which time all interested persons could appear and would be heard.

At the April 9, 2007 meeting, the Hearing was continued to this date and hour.

There have been no written or verbal protests to the request and no one is present to protest thereto.

Commissioner Coates moved the request be approved.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

First Reading of an Ordinance Relating to Minor Subdivisions:

Commissioner Coates moved the requirement relating to receipt of the Ordinance by the Commission one week prior to first reading be waived and that the Ordinance Amending Sections 20-0802.D.4, 20-0901, 20-0907.B.3, 20-0907.B.4; Sections 20-0907.B.5, 20-0907.B.6, 20-0907.C and 20-1202.66.b of Chapter 20 of the Fargo Municipal Code (Land Development Code) Relating to Minor Subdivisions be placed on first reading.

Second by Williams. On call of the roll Commissioners Coates, Williams, Mahoney, Wimmer and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Renaissance Zone Project Application for Joshua Kadrmas Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Joshua Kadrmas at 319 Broadway, #207.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Joshua Kadrmas meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by Joshua Kadrmas for a project located at 319 Broadway, #207 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

Second by Coates. On call of the roll Commissioners Wimmer, Coates, Mahoney, Williams and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Renaissance Zone Project Application for John and Lorelea Stenerson Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for John and Lorelea Stenerson at 505 Broadway, #307.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by John and Lorelea Stenerson meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by John and Lorelea Stenerson for a project located at 505 Broadway, #307 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

Second by Coates. On call of the roll Commissioners Wimmer, Coates, Mahoney, Williams and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Renaissance Zone Project Application for Shanna Lee Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Shanna Lee at 505 Broadway, #302.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Shanna Lee meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the

established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by Shanna Lee for a project located at 505 Broadway, #302 be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

Second by Coates. On call of the roll Commissioners Wimmer, Coates, Mahoney, Williams and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Renaissance Zone Project Application for Kilbourne Group, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Kilbourne Group, LLC at 102 Broadway.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Kilbourne Group, LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by Kilbourne Group, LLC for a project located at 102 Broadway be approved and the income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority contingent upon completion of the project and verification of costs.

Second by Williams. On call of the roll Commissioners Wimmer, Williams, Mahoney, Coates and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Renaissance Zone Project Application for Kilbourne Group, LLC Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Kilbourne Group, LLC at 309 Roberts Street.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Kilbourne Group, LLC meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein recommended that the project be approved.

Commissioner Wimmer moved the Renaissance Zone application filed by Kilbourne Group, LLC for a project located at 309 Roberts Street be approved and the

income tax and property tax exemptions be granted as recommended by the Renaissance Zone Authority.

Second by Coates. On call of the roll Commissioners Wimmer, Coates, Williams, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Renaissance Zone Project Application for Tom and Kari Smith d/b/a T & K Property Management Approved:

A Hearing had been set for this day and hour to receive comments on a Renaissance Zone Project for Tom and Kari Smith d/b/a T & K Property Management at 425 Broadway.

No written protest or objection to the Project has been received or filed in the City Auditor's Office.

The Board determined that no person is present to protest or offer objection to the Project.

The Board received a communication from Senior Planner Robert Stein stating the Renaissance Zone Project application presented by Tom and Kari Smith d/b/a T & K Property Management meets all of the minimum criteria set forth in the Renaissance Zone Plan and is consistent with the established goals and objectives. Mr. Stein stated there are associated issues which were not within the purview of the Renaissance Zone Authority, however, they must be considered by the City Commission. He said previous activities of note relating to this project are:

1. A \$140,000 Community Development loan was given to the property owners (Magic City Financial Group) and this loan has been repaid in full.
2. A 5-year property tax exemption was granted to Magic City Financial Group; the exemption has expired.
3. A \$200,000 loan was made by the City to Magic City Financial Group that was to be repaid by TIF revenues and there is a \$176,000 negative balance in the Great Northern TIF account fund due to the property tax exemption and recent non-payment of taxes.

Mr. Stein said within the past 18 months the City Commission has wrestled with the issue of Renaissance Zone exemptions and TIF. He said a policy was adopted that allowed the two development tools to co-exist, however, when that occurs, the Renaissance Zone benefits are decreased to allow for repayment of the TIF. He said the property tax exemption was reduced to 50% for commercial properties and there was a graduated scale for residential properties based on values and he submitted communications from former Mayor Furness and the Planning staff regarding the policy. Mr. Stein stated since the Great Northern TIF was pre-existing and not part of a negotiated developer's agreement with the prospective buyer, and since the prospective buyer was neither the recipient of the TIF loan nor a beneficiary of the Community Development loan investment, it could be argued that the TIF and prior exemption presented an impediment to redevelopment. Given that set of

circumstances, he continued, there may be a question whether or not the policy applies at all to this situation and, if that were the case, a 100% exemption could be granted. He said should the Commission decide that the January 2006 policy applies, they would need to declare this a project vital and essential to downtown redevelopment and ensure that at least three of the criteria are met and then a 5-year property tax exemption could be granted. Mr. Stein listed the priority development criteria and stated regardless of how the Commission resolves the TIF/Renaissance Zone issues, they will need to determine how the TIF repayment will occur.

Mr. Smith summarized his project and stated he would like to re-establish the Great Northern Depot and surrounding grounds as a vital part of Fargo's downtown and the community as a whole. He said his plan will utilize the interior of this landmark building to create a retail space to serve as a hub of outdoor, recreational activities that will draw residents to the downtown and to convert the grounds into public, green space for all to enjoy.

City Administrator Pat Zavoral stated there is still \$176,000 that is owed to the City. He reviewed the options that were available and stated it would be his suggestion to approve the Renaissance Zone and refer how the financing is going to work to the Finance Committee for a recommendation at the next City Commission meeting.

There was discussion regarding the previous owner being responsible for the money owed and if there should be a lien against that property owner.

Mayor Walaker stated he sees this project as a great opportunity for the property. There was discussion regarding the City's leverage against the previous owner.

Mr. Zavoral stated the City Attorney will be working on this issue.

Commissioner Wimmer moved the Renaissance Zone application filed by Tom and Kari Smith d/b/a T & K Property Management for a project located at 425 Broadway be approved and the income tax and property tax exemptions (terms to be determined) be granted as recommended by the Renaissance Zone Authority.

Second by Williams. On call of the roll Commissioners Wimmer, Williams, Mahoney, Coates and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Commissioner Wimmer moved the Finance Committee be directed to define the terms of the property tax exemption as it relates to the underlying Tax Increment Financing assistance.

Second by Williams. On call of the roll Commissioners Wimmer, Williams, Mahoney, Coates and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

At 6:14 p.m. the Board took a five-minute recess.

After recess: All Commissioners present. Mayor Walaker presiding.

Application Filed by Charlene L. Blazek d/b/a Toscana for an Alcoholic Beverage License Approved:

A Hearing had been set for this day and hour on the application filed by Charlene L. Blazek d/b/a Toscana for a Class "GH" Alcoholic Beverage License at

202 North Broadway, notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Mahoney moved the application be approved.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Coates and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Mandarin, Inc. d/b/a Mandarin to Palace Asian Cuisine Company d/b/a Palace Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "F" Alcoholic Beverage License from Mandarin, Inc. d/b/a Mandarin to Palace Asian Cuisine Company d/b/a Palace, at 4228 15th Avenue South notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Mahoney moved the application be approved.

Second by Williams. On call of the roll Commissioners Mahoney, Williams, Wimmer, Coates and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Resolution Regarding Environmentally Preferable Purchasing Referred to the Finance Committee:

The Board received a communication from Commissioner Williams stating thanks to the City Commission's strong support of environmentally friendly projects and policies, this year Fargo has been ranked number one for best overall environment by the Earth Day Network. He said the City has been a leader in trying and studying methods to help make the best use of its resources and encouraging conservation and renewable energy use and production. In the past two years, he continued, Mayor Walaker and former Mayor Furness have each signed agreements to work to combat global warming along with other Mayors. He said cities and states can lead by example to demonstrate being environmentally friendly is not only the right thing to do; it can also make the City much more efficient and productive. Commissioner Williams stated Fargo was the only city in North Dakota to be awarded two Clean Renewable Energy Bond projects of up to \$1.5 million for the landfill gas project and a separate \$2.4 million wind turbine project. He said Fargo's Landfill methane capture/generation project is just about complete and it is a good example of avoiding cost and generating new revenue by making the best use of a resource that was going into the atmosphere as a greenhouse gas. Commissioner Williams

submitted a resolution for the adoption of a program regarding environmentally preferable purchasing and stated the Fargo Renewable Energy and Conservation Committee is recommending adoption of the policy.

Commissioner Mahoney stated environmentally friendly products are more expensive than other products.

There was discussion regarding tracking the additional costs for the products.

Commissioner Williams moved this item be referred to the Finance Committee for recommendation.

Second by Wimmer. On call of the roll Commissioners Williams, Wimmer, Coates, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

City Auditor's Office Directed to Publish Notice of Hearing on an Application Filed by Matthew Mitzel d/b/a Cowboys on Call for a Taxicab License: Commissioner Mahoney Appointed to Serve on the Taxicab License Committee:

The Board received a communication from City Auditor Steve Sprague stating his office received an application from Matthew Mitzel d/b/a Cowboys on Call for a taxicab license. He stated in accordance with Article 25, Section 0403, Paragraph B of the Fargo Municipal Code, the application shall be submitted by the City Auditor to the Board of City Commissioners who will set a date for a public hearing and appoint a member of the City Commission to serve on the committee to examine the need for the license.

Commissioner Coates moved Commissioner Mahoney be appointed to serve on the license committee and that the City Auditor's Office be directed to publish a notice of hearing on the application.

Second by Williams. On call of the roll Commissioners Coates, Williams, Wimmer, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Update by the City Attorney on the Results of the Mediation Hearings on the Annexation of Sections 5 and 6 in Stanley Township: City Attorney Authorized to Prepare the Annexation Agreements:

City Attorney Erik Johnson reviewed the results of the April 19 and 20, 2007 mediation hearings on the annexation of Sections 5 and 6 in Stanley Township. He said the mediator's fees, which are estimated to be in the \$5,000 range, were a problem for the property owners and they do not want to split the fees. He said written annexation agreements will now need to be prepared to be executed by interested property owners, by the City of Horace and for some property owners that will be annexed into Fargo. He said some of the property owners who protested originally may now come in voluntarily.

In answer to a question, Mr. Johnson stated the agreements may be taken to an administrative law judge who would make the final decision on the annexation.

Mayor Walaker stated the City Attorney needs to be authorized to continue the process and draw up the annexation agreements. He said as far as the mediator's

fees, the protesting property owners felt the mediation was the result of the City's action and the City should pay the fees.

Commissioner Williams moved the City Attorney be authorized to prepare the appropriate annexation agreements and that payment of \$5,000 for mediator fees be authorized.

Second by Wimmer. On call of the roll Commissioners Williams, Wimmer, Coates, Mahoney and Walaker voted aye.

No Commissioner being absent and none voting nay, the motion was declared carried.

Commissioner Wimmer moved that the Board adjourn to 5:00 o'clock p.m., Monday, May 7, 2007.

Second by Coates. All the Commissioners voted aye and the motion was declared carried.

The time at adjournment was 6:42 o'clock p.m.